



App. Control No. 09/975,761
Reply dated 10/11/2001

AF/1733
JW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Kenneth C. Caster	Docket No.:	IR-2588(ET)CIP2
Serial No.:	09/975,761	Art Unit:	1733
Filed:	October 11, 2001	Examiner:	Geoffrey L. Knable
For:	<i>"Contact Metathesis Polymerization"</i>		

REPLY AFTER FINAL

Assistant Commissioner of Patents
Mail Stop AMENDMENT
PO Box 1450
Alexandria, VA 22313-1450

Dec. 30, 2004

Sir:

In response to the Final Office Action dated 12/14/2004, kindly consider the submission and remarks.

With regard to MPEP 718, Applicants note the quoted phrase is ambiguous and contravenes other rules if taken in the meaning ascribed in the rejection. The statute clearly establishes that so long as the prior citation is not 102(b) prior art, meaning, anticipatory without recourse, then the reference can be removed as "prior art." "Removed as prior art" means, removed as a matter of law, as not prior.

Clearly, art that is applicable under is 102(e) (e.g. Tokas) can be removed by antedating such reference by a showing under 37 CFR 1.131, and therefore MPEP 718 should not be read to contravene this viable rule. The correct interpretation of the quoted phrase must be anticipation "under 102(b)," consistent with the statutory language.

Nevertheless, in the matter of rejection under 35 USC 102(e) and 103 (a) over Tokas et al, this publication is, in fact, the parent application in the present case. Acceptance of the petition by the Office of Petitions by according Applicants their original, parent filing date will moot these rejections and also remove US

2002/0053379 as "prior" art. Applicants respectfully ask the Examiner to stay further action on the case until such petition is dispositioned, or reconsider the interpretation given to the quoted phrase in MPEP 718.

An executed terminal disclaimer obviating a potential obviousness double patenting rejection over serial no. 09/711,692 is attached.

Claims 1-5, 7-12, 14, 15, 17, 18, and 20-42 were rejected under 35 USC 112, 2nd parag. Applicants note that the phrase "without radiation, thermal or photochemical curing energy" is taken in light of the specification, page 37 wherein it is stated "[T]here is no need for an exterior energy source such as radiation, thermal or photochemical for curing to produce the adhesive or coating."

In the context of the independent claims, the feature that no exterior energy source is applied for curing is a separate and distinct feature from the conditions recited in claims 10, 11, 21 and 42 where the conditions at the time of steps a), b) and/or c) are further limited.

The skilled person would readily recognize the limitation for non-application of curing energy as relevant to a state after occurrence of steps a) - c), whereas the limitations in the dependent claims refer to the state of the process at the recited steps, not afterwards. Applicants believe there is no ambiguity in the scope of all of the claims because the claim features in question are separate and distinct.

Respectfully submitted,



Miles B. Dearth,
Attorney for Applicants

CERTIFICATE OF MAILING per 37 CFR 1.8(a)

The person signing below hereby certifies that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date indicated below with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Alexandria, VA 22313-1450, with sufficient postage as first class mail (37 CFR 1.8(a)) on the date noted below.



Date: 12/30/04

Printed name: Heather B. Caruso